

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

CIVIL ACTION NO. 04-11531-RGS

FAFARD REAL ESTATE & DEVELOPMENT CORP.

v.

METRO-BOSTON BROADCASTING, INC.

ORDER ON DEFENDANT'S SPECIAL
MOTION TO DISMISS

August 10, 2004

STEARNS, D.J.

Having reviewed the supplemental filings, I am satisfied that plaintiff has made a sufficient showing that the litigation "affects the title to real property or the use and occupation thereof." G.L. c. 184, § 15. As enacted by the Legislature, and interpreted by the Supreme Judicial Court, the lis pendens statute has a sufficiently broad scope to encompass this dispute. See Wolfe v. Gormally, 440 Mass. 699 (2004). Nor can I say that on the existing record the plaintiff's complaint is frivolous. Consequently, the special motion to dismiss is DENIED.

SO ORDERED.

/s/ Richard G. Stearns

UNITED STATES DISTRICT JUDGE